

CONSTITUTION
THE TE-MOAK TRIBE OF
WESTERN SHOSHONE
INDIANS OF NEVADA

PREAMBLE

We, the Western Shoshone Indians of Nevada, located at Elko, Battle Mountain, South Fork and Wells; in order to improve the governing structure initially established by the Constitution and Bylaws adopted by the adult Indians residing on the reservation at Elko, Nevada, on May 3, 1938, pursuant to the Indian Reorganization Act of 1934 (48 Stat. 984), and approved on August 24, 1938; to provide an opportunity for other Te-Moak Communities of Western Shoshone Indians of Nevada to become part of this Tribe; to conserve our Tribal property; to develop our resources; to administer justice; to promote the welfare of ourselves and our descendants, and to otherwise govern the affairs of this Tribe, do ordain and establish this Constitution pursuant to the Indian Reorganization Act of 1934, as amended.

ARTICLE I - MEMBERSHIP

Section 1. Tribal Membership shall include:

- a. All persons of one-quarter (1/4) degree Shoshone Indian blood whose names appear on the official census roll of the Elko Indian Colony as of January 1, 1937, hereafter called Base Roll 1.
- b. All persons of one-quarter (1/4) degree Shoshone Indian blood whose names appear on the "Census of Non-Reservation Shoshone Area, Northeastern Nevada Reservation of the Carson Agency Jurisdiction as of January 1, 1937, taken by Alida C. Bowler," hereafter called Base Roll 2.
- c. All persons of one-quarter (1/4) degree Indian blood born to a member or descendant of a member of the Tribe before the effective date of this Constitution.
- d. All descendants of members of the Tribe born after the effective date of this Constitution; provided, such descendants possess one-quarter (1/4) degree Te-Moak Shoshone Indian blood.
- e. Any person who does not appear on either Base Roll 1 or 2, who has one-quarter (1/4) degree Shoshone Indian blood and who can establish residency for himself or his ancestry in the Te-Moak census area as of January 1, 1937.

Sec. 2. Loss of Membership

- a. The Tribal Council shall cancel the membership of any adult person who relinquishes in writing **their** membership in the Tribe. The legal guardian of any non-compos mentis adult may act in his stead.
- b. **No person who is or becomes enrolled as a member of another Tribe shall be enrolled as a member of this Tribe. Dual enrollment shall be subject to disenrollment action by the Tribal Council.**

Sec. 3. Appeal of refusal of membership. Any person refused membership by the Tribal Council shall have the right to appeal in accordance with tribal ordinances.

Sec. 4. Future membership. The Tribal Council shall have power to enact ordinances governing adoption, loss of membership, and future membership in accordance with the standards stated herein; and shall maintain a current membership roll of the Tribe listed by constituent Band.

ARTICLE 2 - TERRITORY AND JURISDICTION

The territory and jurisdiction of the Tribe shall extend to all reservation lands which include all lands within the exterior boundaries of the Elko Colony, Battle Mountain Colony, Wells Colony, South Fork Reservation (including Odgers Ranch and Ruby Valley Reservation); and

- a. All other sites held in trust for or owned by the Tribe or any of its constituent Bands, or other trust lands occupied by members of the Tribe; and
- b. Including any other lands heretofore or hereafter acquired by the United States, the Tribe or any of its constituent Bands, held by the United States as trustee, shall be subject to the jurisdiction of the Tribe by majority vote of the constituents residing thereon; and
- c. In line with applicable Federal Law, persons, and property within the territory of the Tribe shall be subject to Tribal jurisdiction.

ARTICLE 3 - CONSTITUENT BANDS

Section 1. Present Bands. Those groups of tribal members affiliated with Battle Mountain Colony, Elko Colony, Wells Colony, and South Fork Reservation (including Odgers Ranch and Ruby Valley) shall be constituent Bands of the Tribe.

Sec. 2. Additional Bands.

- a. Each group of fifty (50) constituents who are members of the Tribe, may be recognized as a distinct Band of the Tribe with all the powers granted to constituent Bands by this Constitution upon organization of itself for local self-government and approval of the Tribal Council.
- b. To be eligible for status as a constituent Band, a group must be associated with a land base which is held by the United States in trust for an individual, Band, or Tribe if such group is not part of an existing Band or Tribe.

ARTICLE 4 - EXECUTIVE AND LEGISLATIVE BRANCH OF GOVERNMENT

Section 1. Governing Bodies. The executive and legislative powers of the Tribe shall be vested in the Tribal Council of the Te-Moak Tribe of Western Shoshone Indians of Nevada. For Band Councils, a Council for each constituent Band of the Tribe and shall be identified by the name of the Band.

Sec. 2. Composition of Tribal Council.

- a. The initial composition of the Tribal Council shall consist of nine (9) members; four (4) from Elko, two (2) from Battle Mountain and two (2) from South Fork and one (1) from Wells selected from and by the membership of each of the respective Band Councils.
- b. Tribal Council members shall be apportioned among the several Bands according to the respective number of members in each Band. Apportionment shall be reviewed every three (3) years, and when a new Band is added pursuant to Article 3, Section 2., adjustments shall be made to maintain the principle of one (1) person, one (1) vote.
- c. A subsequent election for Tribal Chairperson shall be held from among those elected to the Tribal Council. The Tribal Chairperson shall be elected at large by the registered voters of the Tribe in a tribal election. The Chairperson shall be the representative who receives the highest number of votes in the Tribal election for Chairperson. The representative receiving the next highest number of votes shall be the Vice-Chairperson.

d. Each member of the Band Council who is elected as a representative to the Tribal Council shall serve on both councils for a three (3) year term.

Staggered terms for the Tribal Council - Chairperson and Vice-Chairperson shall serve three (3) years, next four (4) council positions shall serve two (2) years and remaining three (3) council members shall serve one (1) year, to take effect the next election period following the approval of this amendment to the Constitution.

e. The Tribal Council shall hire a recording secretary who shall have no power to vote in Tribal Council proceedings.

Sec. 3. Powers of the Tribal Council. The Tribal Council shall exercise the powers lawfully granted, and the powers listed in this Section, if the exercise of the powers shall not conflict with Federal Law or terms of this Constitution:

a. To negotiate, consult, and contract with Federal, State, local and Tribal Governments, private enterprises, individuals, and other organizations.

b. To employ legal counsel. The choice of counsel and fees are subject to the approval of the Secretary of the Interior if approval is required by Federal Law.

c. To prevent the sale, disposition, lease, encumbrance of Tribal lands, interests in lands, or other Tribal assets.

d. To sell, dispose of, lease, encumber, assign, or otherwise regulate Tribal lands, interests in lands, or other Tribal assets, in concurrence of the Band Councils, subject to the approval of the Secretary of the Interior.

e. To charter and regulate independent organizations, subordinate organizations, committees, and the board of officers of the tribe; and to delegate powers as appropriate, retaining the right to supervise and to rescind delegated powers.

f. To plan and manage all economic affairs and enterprises of the Tribe.

g. To establish public safety and to provide for law enforcement within the territory and jurisdiction of the Tribe.

h. To levy assessments for the use of Tribal privileges and property.

i. To spend Tribal funds in accordance with an annual budget approved by the Tribal Council, and if required by Federal Law, the budget shall also be approved by the Secretary of the Interior or his authorized representative.

j. To promote, protect and govern the health, peace, morals, conduct, education, safety and welfare of all Tribal members, and all other persons within its jurisdiction.

k. To regulate all administrative and legislative bodies of the Tribe, Tribal agencies, officers, and organizations.

l. To be recognized as constituent Band of the Tribe, additional groups of Western Shoshone Indians shall have the same power and authority as exists in the Bands mentioned in Section I of Article 3. pursuant to Section 2(a) of Article 3

m. To provide for the exclusion of non-members and members from the territory of the Tribe for good cause.

n. To enact all ordinances and resolutions which shall be necessary and proper to carry out the intent of the foregoing powers; and

o. To exercise all powers vested by existing law, and other powers which may in the future be granted to the Tribal Council by members of the Tribe, The United States or the State of Nevada.

Sec. 4. Powers Reserved to Tribal Members. Any powers, not delegated to the Tribal Council by this Constitution or the Secretary of the Interior are retained by the members of the Tribe and may be exercised through appropriate constitutional amendments.

Sec. 5. Duties of Tribal Officers.

a. Tribal Chairperson. The Tribal Chairperson shall have the following duties, powers, and restrictions:

1. Shall be the primary representative of the Tribe.

2. Shall call and preside over all meetings of the Tribal Council.

3. Shall countersign all Tribal Council checks.

4. Shall sign all negotiable instruments, contracts, applications for Federal, or other funds, and all other obligations of the Bands as designated by the Tribal Council.

5. Shall not vote except in case of a tie.

6. Shall make written and oral reports at all Tribal Council meetings of all tribal activities.

7. Shall not obligate the Tribe without the prior written approval of the Tribal Council; and

8. Such other duties, powers and restrictions as designated by the Tribal Council.

b. Tribal Vice Chairperson. The Tribal Vice Chairperson shall assist the Chairperson and in the absence of Chairperson shall assume the duties and powers of the Chairperson.

c. Tribal Recording Secretary. The Tribal Recording Secretary shall preserve all ordinances resolutions and minutes of the Tribal Council and make these documents available to all Tribal members during regular business hours.

d. Tribal Finance Officer. The Tribal Finance Officer

1. Shall be responsibility for the funds of the Tribe.

2. Shall accept, receive, receipt for, preserve, and safeguard all funds for which the Tribal Council is acting as trustee or custodian.

3. Shall deposit all such funds in a bank or elsewhere, as directed by the Tribal Council.

4. Shall report all receipts, expenditures, and account for all funds every month to the Tribal Council in writing, or at any time requested by the Tribal Council; and

5. Shall have experience and knowledge of the Tribal financial records as required by the Tribal Council. All Tribal financial records shall be audited annually and copies of the audit report shall be submitted to the Tribal Council and the Superintendent.

Sec. 6. Vacancies in Tribal Council. Each Band Council shall fill any vacancy which may occur in its representation on the Tribal Council by vote of the members of the Band Council. Selection shall be from within the Band Council.

Sec. 7. Removal and Recall from Tribal Council.

a. Removal by Tribal Council. Any Tribal Council member, other than the Tribal Chairperson, may be removed from the Tribal Council for improper conduct or gross neglect, or **any elected official who pursues frivolous, self-serving court action(s) involving Internal Matters of the Tribe against any member of the council will be removed for cause** by a two-thirds (2/3) vote of all Tribal Council members except the one being considered for removal. No vote for removal shall be taken until after the member has had a fair hearing at which to reply to all charges. No such hearing shall be held unless the member has been given (15) fifteen days written notice of the time and place of the hearing and a written statement of the alleged acts of improper conduct or gross neglect.

b. Removal by a Band Council. A Band representative to the Tribal Council may be removed from such position by the Band Council for any good cause; **and any elected official who pursues frivolous, self-serving court action(s) involving Internal Matters of the Tribe against any member of the council will be removed for cause**, by the majority vote of all members of that Band Council except when such Band representative is also serving as Tribal Chairperson.

c. Recall of Band Representative to the Tribal Council. A Band may recall their representative to the Tribal Council in the manner set forth in this subsection except when such Band representative is also serving as the Tribal Chairperson.

1. **Refusal of any Band Council who fails or refuses to act on a valid petition for recall, petitioners may bring the matter to the Tribal Council. Upon a** valid petition signed by one-half (1/2) of the registered voters of the Band to recall its representative to the Tribal Council, it shall be the duty of the Tribal Council to direct the Band Election Committee to call and conduct a special election in the Band to determine whether such representative should be **removed from the Tribal Council as well as the Band Council.**

2. The Tribal Council **seat** shall be considered vacant if **most of** those voting in the election favors such action.

Sec. 8. Recall of Tribal Chairperson.

a. The Tribal Chairperson shall be recalled from the office of Tribal Chairperson only in the manner set forth in this Section.

b. **The recall of a Tribal Chairperson requires** a valid petition signed by the registered voters of the Tribe or two-thirds (2/3) of the registered voters of any Band. It shall be the duty of the Tribal Council to direct the Tribal Election Board to call and conduct a special election to determine whether the Chairperson should be recalled from that office.

c. **If fifty percent** (50%) of all the registered voters of the Tribe cast a vote and more than fifty percent (50%) of those voting in the election favor such a recall, the Tribal Council shall declare the **seat** vacant. If the vacancy occurs more than six (6) months prior to the date of the next regular election, the Tribal Council shall direct the Tribal Election Board to conduct a general election open to the Tribe's registered voters. Except for the recalled Chairperson, the Tribal Council members who indicate their interest shall be candidates for the election to choose a successor for the remainder of that term of office.

Sec. 9. Action on Petitions for Recall.

a. Recall petitions under Sections 7, 8, and 17 of this Article shall be presented to the Chairperson or, in the absence of the Chairperson or in the event the Chairperson is the subject of the petition, to the Vice Chairperson.

b. The **official** receiving the petition shall call a meeting of **the tribal** council in (10) days to establish the validity of the petition, in accordance with an ordinance for determining such validity, and if valid, establish the election which shall be conducted by the Election Board or Committee in ten (10) days after the meeting.

c. It shall be an act of gross neglect on the part of any Chairperson, Vice Chairperson or Council member to purposely fail or avoid participation in calling the meeting and establishing the election.

Sec. 10. Resignation from Tribal Council. A member of the Tribal Council may resign from the Tribal Council without resigning from the Band Council.

Sec. 11. Composition of Band Councils.

a. The voters of each recognized Band shall elect seven (7) of its members who shall constitute a Band Council.

b . The regular term of office shall be three (3) years until successors are duly elected and installed. **Staggered terms - Chairperson and Vice-Chairperson shall serve three (3) years, next four (4) council positions shall serve 2 years and remaining three (3) council members shall serve one (1) year; to take effect the next election period following approval of this amendment to the Constitution**

c. The Chairperson of the Band Council shall be the person receiving the highest number of votes in the regular election, and who is willing to accept the position.

d. The Vice Chairperson shall be the person receiving the next highest number of votes who is willing to accept the position; and

e. The Recording Secretary shall be hired by the Band Council and shall not vote in Council proceedings.

Sec. 12. Powers of Band Councils. With authorization of the Tribal Council by resolution, consistent with this Constitution, Federal and Tribal law, the Band Councils shall have the power to:

- a. Consult with representatives of Federal, State, and local Governments, business, and all other persons on matters of Band interest.
- b. Conduct business affairs concerning all matters that relate solely to the Band.
- c. Manage local enterprises, own, and operate businesses, charter local associations and corporations.
- d. Issue grazing permits and leases of Tribal lands located within the Community, make assignments, and apply for Bureau of Land Management grazing permits, all subject to the approval of the Secretary of the Interior. Leases longer than twelve (12) months require the consent of the Tribal Council.
- e. Apply for Federal grants under its own name.
- f. Make contracts under its own name.
- g. Exercise such further powers as may be delegated by the Tribal Council or this Constitution.
- h. Recommend any changes in the Constitution; and
- i. Select its representatives to the Tribal Council and remove them for any good cause by majority vote, except as provided in Article 4, Sections 7 and 17.

Sec. 13. Band Enactments. Band Councils shall have no authority to enact ordinances but shall conduct all business by resolutions or motions.

Sec. 14. Band Council Actions Consistent with Law. No action of any Band Council shall be inconsistent with Federal Law, this Constitution, or ordinances and resolutions of the Tribe.

Sec. 15. Duties of Band Officers.

- a. Band Chairperson. The Chairperson of each Band Council:
 1. Shall call and preside over meetings of the Band Council and Band membership.
 2. May consult with all representatives of all Federal or local Governments on all matters of local interest.
 3. Shall be co-signer of Band Council checks.

4. Shall sign all other negotiable instruments, contracts, Federal applications or other funds, and all other obligations relating to the Band.

5. Shall be a voting member of the Band Council.

6. Shall make written reports at all Band Council meetings of all Band activities.

7. Shall not obligate the Band without the prior written approval of the Band Council.

b. Band Vice Chairperson. The Band Vice Chairperson shall assist the Chairperson and in the absence of the Chairperson shall assume the duties and powers of the Chairperson.

c. Band Recording Secretary. The Band Recording Secretary shall preserve all resolutions and minutes of the Band Council and shall make the same available to all Band members during regular business hours.

d. Band Finance Officer. The Band Finance Officer

1. Shall be responsible for all funds of the Band.

2. Shall accept, receive, receipt for, preserve, and safeguard all funds for which the Band Council is acting as trustee or custodian.

3. Shall deposit all such funds in a bank as directed by the Band Council.

4. Shall report all receipts and expenditures, and accounts for all program funds every month to the Band Council in writing, or at any time requested by the Band Council; and

5. All Band financial records shall be audited annually, and copies of the audit report shall be submitted to the Tribal Council and to the Superintendent.

Sec. 16. Vacancies in Band Council. If any position on the Band Council shall become vacant for any reason other than the expiration of the term of office, the Band Council shall call a special election to fill the vacancy.

Sec. 17. Removal and Recall from Band Council. Except when the Band Council member is also serving as the Tribal Chairperson, Band Council members may be removed or recalled in the manner as follows:

Removal. A Band Council member may be removed from the Band Council for improper conduct or gross neglect of duty when four (4) Band Council members vote in favor of removal. The member charged shall not vote. No such vote shall be taken until after the member has had a fair hearing at which to reply to all charges. No such hearing shall be held unless the member has been given fifteen (15) days in advance, a written notice of the time and place of the hearing and a written statement of the alleged acts of improper conduct or gross neglect.

a. Recall.

1. Upon receipt of a valid petition by one-half (1/2) of the registered voters of the Band to recall a Band Council member, it shall be the duty of the Band Council to call a special election in the Band to determine whether such representative should be recalled from the Band Council.

2. The office shall be considered vacant if most of those voting in the election favors such recall.

3. Refusal of Band Council to act on recall in thirty (30) days of its receipt of a valid petition for recall, the petitioner's may bring the matter to the Tribal Council which shall act in place of the Band Council.

Sec. 18. Manner of Conducting Business. Both the Tribal Council and the Band Councils shall follow these provisions:

a. Regular Meetings. Regular public meetings of each Council shall be held monthly on a date set by resolution and other times as the Council shall provide.

b. Special Meetings. Special meetings of the Council may be called on written notice by the Chairperson and shall be convened upon a written request by most of the Council. Notice will be considered sufficient when given in writing two (2) days before the special meeting.

c. Closed Meetings. For only highly confidential issues and all personnel issues.

d. Executive Sessions. The Tribal Council may hold executive sessions but no final decision on matters shall be made except at open regular or special meetings.

e. Quorum.

1. No meeting shall commence until a quorum is present. A quorum shall consist of most of the membership of the Council including the presiding officer. Once a quorum is established, the Council is authorized to conduct business until adjournment, regardless of whether some Council members leave the meeting. All decisions shall be a majority vote of Council members present.

2. Stipends. Stipends shall be paid on an hourly basis to the attendees and available on the following day after a meeting has been completed. At the end of each year a 1099G tax document will be given to IRS to report earnings.

f. Items of Business. The meetings of the Council shall cover the following items in appropriate fashion:

1. Call to order.

2. Roll Call. Members shall be present except when an emergency situation occurs.

3. Approval of the minutes of the last meeting.

4. New business. Presentations shall be no longer than 15 minutes for all public and members invited to the meetings.

5. Reports. The program reports from the different department heads shall be no longer than 15 minutes.

6. Unfinished Business. Updates on prior business matters shall be no longer than 15 minutes.

7. Adjournment.

g. Procedures. This Constitution and any ordinance, resolution, or motion consistent with it shall govern the procedures of the meeting.

h. Copies of Minutes Furnished. The Band Council shall provide a copy of the minutes of each of its meetings and all official documents of the Band to the Tribal Council and to the Superintendent. The Tribal Council shall provide a copy of the minutes of each of its meetings and all official documents of the Tribe to each Band Council and to the Superintendent.

j. Committees.

1. The Tribal Chairperson or the Band Council Chairperson shall be an exofficio non-voting member on every committee or a delegated agent of their respective councils.

Sec. 19. Legislative Actions.

a. Ordinances. Tribal Ordinances are the laws of the Tribe and shall govern matters of general applicability. Ordinances shall be collected and published for the information of interested persons and an official copy of every ordinance shall be available for inspection at the Tribal office and the Band offices.

b. Proposed Ordinances. The Tribal Council shall **make available** all proposed ordinances to each Band office for review and comment by the Band within ten (10) days but not more than forty-five (45) days, before a vote is taken on such proposals by the Tribal Council.

c. Resolutions. Resolutions are the decisions of the Councils on matters of temporary interest. An official copy of every resolution of the Tribe shall be available for inspection by Tribal members at offices of the Tribe and Band. The resolutions of each Band Council shall be available to Band and/or Tribal members at its office and the office of the Tribal Council.

d. Motions. Legislative actions, other than ordinances and resolutions, shall be set forth in motions recorded in the minutes.

Sec. 20. Enactment Clause. Every ordinance shall begin with the words: "Be it enacted by the Tribal Council ... " Every resolution shall begin with the words: "Be it resolved by the _____ Council ..."

ARTICLE 5 - REGISTRATION AND VOTING

Section 1. Registration.

a. All enrolled members of the Tribe who have reached the age of eighteen (18) years shall become a registered voter at the Band where the person resides or by choice of the enrolled member. Persons who are seventeen (17) years of age shall be permitted to register for the forthcoming election if they will be eighteen (18) years old by the date of the election. If a Band refuses to register a person, that person may apply to the Tribal Council for registration. If found eligible, the Tribal Council shall register the applicant and assign to the appropriate Band of choice.

b. In all elections of the Band or Tribe, a registered voter may vote only in the Band where the voter is registered.

c. To vote, a person must be registered with a Band at least thirty (30) days prior to the election. Registration shall be considered active if the registered voter continues to cast ballots in the Band elections. If any person fails to vote in two (2) consecutive regular elections, they shall be removed from the voter registration list. Re-registration shall be required to qualify to vote.

Sec. 2. Registration List. The Band Election Committee shall keep a current list and preserve permanent record of registered voters and shall provide complete records of the same to the Tribal Council seven (7) days before the Band election. The lists shall be available for inspection by all persons.

Sec. 3. Absentee Voting. Absentee Voting shall be provided for in accordance with the Tribal Election Ordinance

ARTICLE 6 - CANDIDATES FOR OFFICE

Section 1. Eligibility of Candidates. To be an eligible candidate for any elective office, a person must:

a. Be enrolled as a member of the Te-Moak Tribe.

b. Be twenty-one (21) years of age.

c. Agree and sign a "Authorization for Release of Information" form at the time of filing for candidacy to permit the Election Committee to request for a background investigation regarding criminal history. No person who has been convicted of a felony shall qualify as a candidate or hold membership on the Band/Tribal council. A person filing for candidacy shall be required to pay the cost of the background check.

d. Have physical residence within the trust lands of a constituent Band for a period of one (1) year immediately preceding the nomination or five years of residence within five (5) miles outside the boundaries of a constituent band.

e. Submit their name for candidacy in writing to the Band Election Committee. Provide name, candidacy fee, address, SSN, and driver's license number twenty (20) days prior to the election.

Sec. 2. Ruling on Candidacy. It shall be the duty of the Band Election Committee to inform prospective candidates fifteen (15) days prior to the election whether they qualify as candidates and to post in a public place the names of all candidates ten (10) days before the election.

Sec. 3. Appeal Rights of Rejected Candidates.

Any person who is refused candidacy by the Band Election Committee may petition the Tribal Council to certify the person as a candidate. The Tribal Council shall immediately consider such a petition and shall render a decision ten (10) days before the election.

ARTICLE 7 - ELECTIONS

Section 1. Band Council Elections. Band Elections shall be held during the month of October, second Tuesday every third year. Members of the Band Council shall officially take office on the day following certification of the election results.

Sec. 2. Tribal Council Representatives. Each Band Council shall select its representatives to the Tribal Council and certify their names to the Tribal Council fourteen (14) days after the Band Council elections.

Sec. 3. Tribal Chairperson Election. The election for Tribal Chairperson shall be held twenty-one (21) days after the Band Council elections.

Sec. 4. Officially Take Office. The Tribal Chairperson and the members of the Tribal Council shall officially be seated on the next workday following certification of the Tribal Chairperson election results.

Sec. 5. Certified Election Results. The election results are final when two (2) of the four (4) bands, and the Tribal Chairperson have been certified.

Sec. 6. Oath of Office. Each member of the Tribal or Band Council and each officer or subordinate officer, elected or appointed shall take the following oath of office as administered by the Chief Judge of the Tribal Court, or if absent, the Chairman of the Tribal Election Board, prior to assuming the duties thereof:

"I _____ do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada; that I will carry out, faithfully and impartially, the duties of my office to the best of my ability; that I will promote and protect the best interests of the Te-Moak Tribe of Western Shoshone Indians of Nevada."

Sec. 7. Salaries and Expenses. The Tribal or Band Councils may pay such salaries and expenses of officers or members of the Councils, or their delegate bodies as is deemed advisable from such funds as may be available.

Sec. 8. Election Ordinance. The Tribal Council shall enact an ordinance, consistent with this Constitution, setting forth the procedures to be followed in conducting each of the various types of Tribal and Band elections called for in this Constitution. The ordinance shall at least include provisions for:

- a. Conduct all elections by secret ballot.
- b. Absentee voting.
- c. Maintaining a current list of registered voters.
- d. Screening of prospective candidates.
- e. Settle election disputes; and
- f. The establishment of Band Election Committee and a Tribal Election Board having responsibility to ensure that the respective Band and Tribal elections are conducted objectively and fairly.

Sec. 9. Election Committees. Each Band Council shall appoint an Election Committee composed of three (3) or more persons to conduct all Band elections in accordance with this Constitution and the Tribal Election Ordinance and shall certify the results of such elections to the Band Councils and **the tribal membership** five (5) days after the election.

Sec. 10. Tribal Election Board. The election board shall be composed of four (4) members, one member from each Band election committee, to conduct the Tribal Chairperson election in accordance with this Constitution and the Tribal Election Ordinance and shall certify the results of such election to the Band Councils **and the tribal membership** five (5) days after the election.

ARTICLE 8 - JUDICIAL BRANCH OF GOVERNMENT

Section 1. Tribal Courts. There shall be a court of general jurisdiction and a Supreme Court of appellate jurisdiction.

Sec. 2. Powers of the Courts. All judicial powers of the Tribe shall be vested in the Judicial Branch of Government, including such powers as may in the future be granted to the Tribe by applicable Federal law of the United States, or tribal council.

Sec. 3. Jurisdiction. The judicial power shall extend to all cases in law or equity arising under this Constitution or Tribal enactments. Decisions of the Tribal Courts shall be binding upon all persons and property within the jurisdiction of the Tribe. Jurisdiction of suits against the Tribe or any constituent Band is limited to suits brought by the members of the Tribe. The appellate court of the Tribe shall be the final interpreter of this Constitution and tribal laws.

Sec. 4. Term of Office and Qualifications.

a. Initial Appointment. The initial appointment length of the term of office for the judges on each court shall be three (3) years to establish a system of staggered terms.

b. Terms of Office. The judges of both Tribal Courts shall be appointed and confirmed by the Tribal Council for a period of six (6) years.

c. Qualifications. A judge shall be thirty (30) years or older, **good moral character with experience and knowledge of the laws and customs of the Tribe.**

Sec. 5. Compensation. Tribal judges shall receive **compensation during the term in office.**

Sec. 6. Recall of Judges and Filling of Vacancies.

a. A judge shall be unseated from **office by a Tribal Council action for improper conduct and gross neglect of tribal laws and customs.**

b. If the position of a judge is declared vacant, the Tribal Council shall immediately appoint a qualified person to fill the vacancy for the remainder of the unexpired term.

ARTICLE 9 - BILL OF RIGHTS

Section 1. Rights of Tribal Members. The Tribe, in exercising powers of self-government, shall not:

a. Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.

b. Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, **shall not be violated**. No warrants **shall issue**, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

c. Subject any person from being prosecuted twice for substantially the same crime.

d. Compel any person in any criminal case to be a witness against you.

e. Take any private property for a public use without just compensation.

f. Deny any person in a criminal proceeding the right to a speedy and public trial and **to know who your accusers are and the nature of the charges and evidence against you. Deprive protection from unjust or unfair criminal accusations by allowing them to call for witnesses who will testify in their behalf, as called for in the compulsory process clause, at their own expense; and have the assistance of counsel for their defense.**

g. Require excessive bail, impose excessive fines, inflict cruel and unusual punishments. In no event impose for conviction of one (1) offense any penalty or punishment greater than imprisonment for a term of six (6) months or a fine of five hundred dollars (\$500) or both.

h. Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

i. Pass any bill of attainder or ex post facto law; or

j. Deny any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of six (6) persons.

ARTICLE 10 - TRIBAL LANDS

Section 1. Use of Tribal Lands. Tribal lands may be used by Tribal members by lease, permit, assignment, or other appropriate contract, subject to the following rules:

- a. Leases. Tribal lands may be leased by the Band Council with the consent of the Tribal Council for a period of twelve (12) months. Longer term leases shall be approved by the Tribal Council.
- b. Grazing Permits. Band Councils shall have the authority to issue grazing permits. Grazing permits shall be for one season but may be renewed in accordance with the grazing ordinance.
- c. Preference for Leases and Grazing Permits. First preference shall be given to Tribal organizations and enterprises. Second preference shall be given to Tribal members.
- d. Assignments. Band Councils shall have the authority to issue assignments within their Band areas, subject to the following rules:
 1. Purpose. The head of household is entitled to an assignment of sufficient agricultural Tribal land for a home and to sustain a reasonable economic livelihood.
 2. Preference. First preference shall be given to households which have no land for a home. Second preference shall be given to households which have a home but do not have sufficient agricultural land to sustain an economic livelihood.
 3. Notice of Availability. The Band Council shall notify all Band members of all lands that are available for assignments.
 4. Cancellation of Assignment. The Band Council may cancel any assignment, when the person holding the assignment violates any significant rule or fails to use the land for a period of one (1) year. The Band Council must first give notice of intent to cancel to the assignee and give them an opportunity for a hearing. If the action of the Band Council is disputed, the assignee may appeal the matter to the Tribal Council. A canceled assignment thereby becomes available for assignment to another.
 5. Death of Member Holding Assignment. In the event of the death of any Tribal member holding an assignment the Band Council will reassign their interests to an heir, as stated by probate law or by will. Reassignment to the Tribal member's relative shall be done in such a manner, by use of a trustee, legal guardian or otherwise to avoid unnecessary hardship on any family member who is ineligible to hold the assignment and in the best interest of all members of the family.
 6. Application for Assignments. Applications for assignments shall be filed with the Band Council and shall be the name of the person or persons applying for the land. Notices of all applications received by the Band Council shall be posted in the Bureau of Indian Affairs Agency office and in all Band Offices in which the land is located, for twenty (20) days before action is taken by the Band Council. Any member of the Band wishing to oppose the granting of an assignment shall do so in writing, stating objections, and file the same with the Tribal Council, and may, if so desires, appear before the Band Council and Tribal Council to present evidence.

(7) Assignments, Available for Inspection. The Band Council shall furnish the Superintendent, Bureau of Indian Affairs and Tribal Council a complete record of all actions taken by the Band Council on applications for assignment. A complete record of assignments shall be kept in the BIA office, the office of the Tribal Council and Band Council and shall be open for inspection to all members of the Tribe.

Sec. 2. Ordinances. The Tribal Council may enact additional regulations with this Constitution governing the use of Tribal lands.

Sec. 3. Fees. Fees for leases, permits, assignments and other contracts dealing with the use of Tribal lands shall be as determined by the Tribal Council by resolution or ordinances, and shall be paid to the Tribe or Band whichever is the granting party, or both.

Sec. 4. Approval of Secretary of Interior. All leases, permits, assignments or contracts of any kind pertaining to Tribal land or Tribal real property are subject to the approval of the Secretary of the Interior, or his authorized representative.

ARTICLE 11 - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Tribal Initiative. The registered voters of the Tribe shall have the right to propose legislation and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition signed by thirty percent (30%) of the registered voters, the Tribal Council shall direct the Tribal Election Board to call an election to be conducted pursuant to the election ordinance thirty (30) days after receipt of the valid petition. An affirmative vote by a majority of those who cast ballots shall determine whether the proposal is adopted; provided, that thirty percent (30%) of the registered voters cast ballots in such election.

Sec. 2. Tribal Referendum. By the request of most of the members of the Tribal Council, any enacted or proposed ordinance or resolution shall be submitted by the Election Board to a popular referendum of registered voters. The registered voters shall by majority vote decide whether the ordinance or resolution shall be in effect if thirty percent (30%) of the registered voters vote for the referendum.

Sec. 3. Band Initiative. The registered voters of each Band shall have the right to propose legislation within the scope of Band authorities and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition of thirty percent (30%) of the Band's registered voters, the Band shall direct the Band Election Committee to call an election pursuant to the Tribal election ordinance. The election shall be conducted in the manner set forth in Section I of this Article and the same time periods shall apply.

Sec. 4. Band Referendum. By the request of most of the members of the Band Council, any enacted or proposed resolution shall be submitted by the Band Election Committee to a popular referendum of the registered voters. The registered voters shall, by majority vote decide whether the resolution shall be in effect if thirty percent (30%) of the registered voters vote for the referendum.

ARTICLE 12 - ADOPTION OF CONSTITUTION

Section 1. Adoption. This Constitution shall become effective when adopted by a majority vote of the **registered** voters of the Tribe at **an election called for** and conducted pursuant to regulations of the Secretary of the Interior if thirty percent (30%) of those registered cast their ballots. The Secretary of the Interior shall approve this Constitution and shall be effective on the date of approval.

Sec. 2. First Election.

- a. Incumbent members of the governing body on the effective date of this Constitution shall continue to serve until replaced.
- b. Sixty (60) days following the effective date of this Constitution, a special election shall be called and conducted by the incumbent governing body to choose persons for Band Councils. A subsequent election shall be held thirty (30) days, thereafter, to elect a Tribal Chairperson.
- c. The first election shall be conducted pursuant to regulations of the existing governing body which shall comply with provisions of this Constitution.

Sec. 3. Savings Clause. All ordinances, resolutions or policy of the Tribe and Band Councils on the effective date of this Constitution are ratified and continued in full **force if** consistent with this Constitution.

Sec. 4. Prior Disharmonious Actions Nullified. All ordinances, resolutions **or** policy of the Tribe and Band Councils on the effective date of this Constitution, that are not consistent, are superseded.

Sec. 5. Former Constitution and Bylaws. The Constitution and Bylaws of the Te-Moak Bands of- Western Shoshone Indians, Nevada, approved August 24, 1938, is hereby superseded.

ARTICLE 13 - AMENDMENTS

Section 1. Amendments to the Constitution. This Constitution may be amended by a majority vote of the **registered** voters of the Tribes in an election called by the Secretary of the Interior and conducted pursuant to **the** regulations **if** thirty percent (30%) of the registered voters who voted in favor to amend. No amendment shall become effective until it is approved by the Secretary of the Interior or his authorized representative.

Sec. 2. Election for Amendments. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a resolution adopted by two thirds (2/3) of the entire Tribal Council or upon receipt of a petition signed by twenty-five percent (25%) of the registered voters of the Tribe.

ARTICLE 14 - CERTIFICATION OF RESULTS OF ELECTION

Pursuant to an order issued on _____ by _____ Deputy Assistant Secretary - Indian Affairs (Operations), this constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada, was submitted for adoption to the **registered** voters of the Tribe and on _____ duly adopted by a vote of ____ for and ____ against, in an election in which thirty percent (30%) of the ____ entitled to vote, cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat.378).

Chairman, Election Board

Election Board Member

Election Board Member

Date: _____ *Election Board Member*

ARTICLE 15 - APPROVAL

In that this Constitution was duly adopted as evidenced by Article 14, I, _____ Deputy Assistant Secretary - Indian Affairs Operations, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 209 DM 8.3, do hereby approve this Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada. It is effective as of this date; provided, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal Law.

Deputy Assistant Secretary - Indian Affairs
(Operations)

Washington, D.C.

Date: _____